

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY TIFT,

Defendant.

CASE NO. CR20-0168-JCC

ORDER

This matter comes before the Court on Defendant's motion to compel (Dkt. No. 168). Having thoroughly considered the briefing and the relevant record, the Court DENIES the motion for the reasons explained herein.

Defendant moves the Court to compel the Government to disclose any out-of-court statements the Government intends to introduce at trial, as well as the identities of the declarants of those statements. (Dkt. No. 168.) Defendant contends this information must be disclosed to "avoid undue delay and unfair surprise." (*Id.* at 2.) As an initial matter, the Government has already produced "considerable volumes of co-conspirator statements in discovery." (Dkt. No. 169 at 2.) Additionally, the Government intends to produce an exhibit list prior to trial, which will give Defendant advanced notice of any co-conspirator statements it intends to offer. (*Id.* at 2.) Testimony of the other co-conspirators will be provided consistent with Plaintiff's obligations

1 under the Jencks Act.¹ (*Id.*) Prior to trial, Defendant will have the opportunity to “review the
2 government’s exhibit list, to file motions *in limine*, and to object during the course of trial to
3 evidence offered.” (*Id.* at 2–3.) Plaintiff will have the opportunity to object to evidence presented
4 by the Government, and the Court will address any evidentiary issues that may arise at trial.

5 Despite these opportunities to review the evidence in due course, Defendant relies on
6 *Bourjaily v. United States*, 483 U.S. 171 (1987) to support his claim for early disclosure. This
7 case is inapt. In *Bourjaily*, the issue was the admissibility of co-conspirator statements, not their
8 early disclosure. *Id.* at 174–177. The Government will meet its pretrial disclosure obligations by
9 providing a preliminary exhibit list prior to trial. *See United States v. Jesenik*, 2022 WL
10 11815826, at *19 (D. Ore. 2022) (denying motion to compel early disclosure of co-conspirator
11 statements on the grounds that a preliminary exhibit list was sufficient).

12 For the foregoing reasons, Defendant’s motion (Dkt. No. 168) is DENIED.

13 DATED this 21st day of February 2023.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE

¹ The Jencks Act (18 U.S.C. § 3500) governs the demands for production of statements and reports of witnesses.